

until the parents come home. We did not need the FBI to tell us that. We kind of figured that out. But this is key.

So here we are with a new program to extend No Child Left Behind to high school kids when we have not fully funded the afterschool program and many of the other programs that were promised to our people in the first No Child Left Behind. That is \$1.4 billion, folks. This is not small change. This is \$1.4 billion for this new program. There are no revenues in there from Iraqi oil.

This is also the first administration not to back a polluter-pay fee. When polluters cause these superfunds, where we have toxics all over the ground seeping into the water, it costs a lot of money to clean it up. This is the first administration, Republican or Democratic, not to support this polluter-pay fee. That would bring billions in over 5 years.

There are ways for us to pay for things the American people need. I am looking forward to getting into more of the fine print of this particular budget. I used to be on the Budget Committee. I can tell you, I loved being on the Budget Committee because it was a way to look at the big picture. When I went on the Commerce Committee, I had to give up the Budget Committee. It was a sad decision for me. But I look forward to hearing from KENT CONRAD and I look forward to hearing from the Republican chairman, who was PETE DOMENICI, and I am not sure if it has changed or not. Because I want to hear their take on this budget.

But we see new initiatives in this budget that obviously are not paid for when we are shorting probably 150 programs, according to the President. We see nothing in here about getting any revenues from the Iraqi oil that were promised to us: \$50 to \$100 billion over the course of the next 2 or 3 years we were told by this administration in 2003. I believe in holding people accountable when they say things. I think it is important. That is what they said, and we do not see any evidence of any of this in this budget.

So we have the budget to deal with. We have the class action lawsuit legislation, which I hope we can do in a way to protect the important lawsuits that need to be heard and need to be resolved. Because if they are heard and they are resolved, our people will be safer, our people will be stronger, our people will feel they have been given justice.

We have the Social Security, what I call, repeal. Not a penny has been put into this budget to reflect any of that.

I understand my time is up. There is no one on the floor so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### CLASS ACTION FAIRNESS ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Senate will proceed to the consideration of S. 5, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 5) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

Mr. SPECTER. Mr. President, I was about to note that the hour of 3 o'clock has arrived. According to the previous order, the Senate is to take up the legislation on class action. This is legislation which has been crafted over a considerable period of time. It had some difficulty in achieving 60 votes for so-called cloture to cut off debate so that the Senate would take up the issue. It had been negotiated among a number of Senators in the past to get the requisite 60 votes, and it is represented that if the bill is passed in its current form in the Senate, it will be agreeable to the House of Representatives. When I choose my words carefully—that has been represented; you never know until it gets to the other body and see what they do—but that has been the expectation.

When the issue was negotiated, there were a number of Senators who were satisfied with the structure of the bill. But all 100 Senators had not assented, agreed to it, including this Senator. We customarily are not all involved in negotiations as to the bill so that there is obviously latitude, when the matter comes before the Senate, for individual Senators to exercise their right to either offer amendments or to join in amendments which are offered.

I support class action reform. I do so essentially to prevent judge shopping to States and even counties where courts and judges have a prejudicial predisposition on cases. Regrettably, the history has been that there are some States in the United States and even some counties where there is forum shopping, which means that lawyers will look to that particular State, that particular county to get an advantage.

Diversity jurisdiction was established in the United States so that if

there was litigation between citizens of different States, there was a certain amount in controversy, a jurisdictional amount—that amount has risen over the years; when I started the practice of law it was \$3,000, now it is \$75,000—the diversity jurisdiction of the Federal courts was established to see to it that if a litigant from California, illustratively, came to Pennsylvania and might be in the State court, that there would be perhaps some predisposition on the part of State court judges to look more favorably upon the local litigant. And the Federal courts were viewed as being more impartial. And that thread remains to this day.

The legislation will leave in State courts, if the matter is predominantly a State court issue, where there are some two-thirds of the class in that State. If there is one-third or less, then the matter would go to the Federal court. And if it is between one-third and two-thirds, then it will be up to the discretion of the Federal judge on a series of standards which have been worked out through the leadership of Senator FEINSTEIN of California.

The bill came before the Judiciary Committee last Thursday. And it was my request of the Judiciary Committee members at that time that amendments not be offered because if you have controversial amendments offered in committee, they are customarily taken up again on the Senate floor. And the majority leader, Senator FRIST, had asked me in my capacity as chairman of the committee to get the bill out last Thursday so that it could come to the floor today.

As is well-known publicly, the class action legislation is a priority of the President's. It has been the intention of the majority leader to put the matter on the agenda at an early time—obviously, February 7 is an early date—and reserve sufficient time so that Senators have a full opportunity to offer amendments, and we can move through to completion of the bill.

There is an amendment which has been discussed involving a proposal by the Senator from New Mexico, Mr. BINGAMAN, which would make certain that substantive rights which are now present in State courts would be retained after the enactment of this legislation. State courts use State law, and that is substantive law, in certifying class actions. And while I have stated my support for moving cases to the Federal court for the reasons I have already said, I have made a claim in the past and repeated it in the Judiciary Committee meeting last Thursday that in moving the cases to the Federal courts, I do not want to see changes in the substance of the rights of consumers or other class action litigants; that the objective which I think we ought to obtain is that the same substantive rights would remain; that this bill should not be a vehicle for